



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 4197-02
11 July 2002

SSGT [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed that the contested fitness report for 27 August to 31 December 1999 be removed; that the report for 1 January to 7 June 2000 be modified by removing, from the "Justification" for the adverse mark in Section F, item 3, "as evidenced by his marginal height/weight standards, PFT [physical fitness test] performance, and chronic absence from the work place to handle personal issues," and further removing the parts of your rebuttal and the reviewing officer's comments concerning this mark; and that the report for 30 June to 31 December 2000 be modified by changing the item 7 ("Recommended for Promotion") mark from 7.a ("Yes") to 7.b ("No").

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 July 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the reports of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 16 April and 31 May 2002, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the reports of the PERB. They were unable to find your avionics chief at work center 210 had an unjustified bias against you, nor could they find he influenced the contested fitness report for 30 June to 31 December 2000, submitted after you had left the avionics division. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
APR 16 2002

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED]'s DD Form 149 of 2 Jan 02
(b) MCO P1610.7E w/Ch 1
(c) MCO P1610.7e/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 10 April 2002 to consider Staff Sergeant [REDACTED]'s petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 990827 to 991231 (AN). Reference (b) applies.
- b. Report B - 000101 to 000607 (TR). Reference (c) applies.
- c. Report C - 000630 to 001231 (AN). Reference (c) applies.

2. The petitioner contends that all three reports fail to reflect accurate and fair evaluations of his performance during the stated periods. It is his position that prior to the arrival of WO Boyero and Master Sergeant [REDACTED] he progressed without incident and was frequently called upon because of his knowledge and experience. In essence, the petitioner believes the reports are more a product of personality than performance. To support his appeal, the petitioner has furnished three letters of reference, a copy of his Master Brief Sheet, and copies of the reports immediately prior and subsequent to those at issue.

3. In its proceedings, the PERB concluded that:

a. The removal of Report A is warranted and has been directed.

b. With minor exceptions, Reports B and C are administratively correct and procedurally complete as written and filed. In each case, the adverse report was correctly referred to the petitioner for his acknowledgement and the opportunity to

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] MC

attach a statement in his own behalf. He did so on both occasions and in each instance the Reviewing Officers and Third Sighting Officers (four different individuals) concurred in the respective assessments. We also note there were different Reporting Seniors on the reports, totaling six officers who all seemed to possess the same basic evaluative opinions. Nevertheless, and notwithstanding the statements included with reference (a), the Board finds nothing to show that Reports B and C are anything other than accurate and fair portrayals of the petitioner's performance.

c. With regard to Report B, the Board takes exception with a portion of the "Justification" on page three, specifically that which refers to the petitioner's height/weight, PFT, and absences. Simply stated, the petitioner was within Marine Corps standards for height/weight and passed the PFT. Additionally, nothing has been documented concerning absences from the workplace. In this regard, the Board has directed elimination from Report B of the verbiage identified below:

(1) From the "Justification" block on page three: "as evidenced by his marginal height/weight standards, PFT performance and chronic absence from the work place to handle personal issues."

(2) From paragraph five on page one of subject's rebuttal: "Height and weight standards have always been met and no negative comments on uniform fit have ever been given. I have never scored below a 2nd class PFT and prior to the modification of the PFT I was a consistent first class."

d. The Board discerns an administrative oversight in Item 7 of Report C and concludes there should have been an "x" in Block 7b ("no") as opposed to Block 7a ("yes"). This is especially relevant given the Reporting Senior's statement in Section I (to wit: "Directed Comment: SECT A, Item 7b: I recommend that the MRO not be promoted with contemporaries."). To rectify this error, the Board has directed that Item 7 of Report C be modified as follows:

- (1) Block 7a. Delete "x"
- (2) Block 7b. Add "x"

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], 40 [REDACTED] USMC

4. The Board's opinion, based on deliberation and secret ballot vote, is that Reports B and C, as modified, should remain a part of Staff Sergeant [REDACTED]'s official military record. The corrective actions identified in subparagraphs 3c(1), 3c(2), 3d(1), and 3d(2) are considered sufficient.

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
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IN REPLY REFER TO:
1610
MMER/PERB
MAY 31 2002

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: ADDENDUM TO MARINE CORPS PERFORMANCE EVALUATION REVIEW
BOARD (PERB) ADVISORY OPINION ON BCNR APPLICATION IN THE
CASE OF STAFF SERGEANT [REDACTED]
USMC

Ref: (a) PERB Advisory Opinion 1610 MMER/PERB of 16 Apr 02;
same subject
(b) MCO P1610.7E w/Ch 1-2

1. This is an Addendum to the Advisory Opinion contained in reference (a).
2. Per the provisions of MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 29 May 2002 to consider Staff Sergeant [REDACTED] request for removal of his fitness report for the period 010101 to 010209 (CH). Reference (b) is the performance evaluation directive governing submission of the report.
3. As with the three reports identified in reference (a), the petitioner contends the report identified herein fails to reflect an accurate and fair evaluation of his performance.
4. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. There is absolutely nothing unfavorable in the challenged fitness report; in fact, the Reporting Senior indicated the petitioner had shown "great progression" in his billet assignment, was an "asset" to the Division, and provided a "wealth of knowledge on avionics systems of the EA6B." These are all viewed as positive statements, devoid of any inaccuracy or unfairness.
5. The Board's opinion, based on deliberation and secret ballot vote, is that Staff Sergeant [REDACTED] fitness report for the period 010101 to 010209 (CH) should remain a part of his official military record.

Subj: ADDENDUM TO MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB) ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF SERGEANT [REDACTED] USMC

6. With regard to the petitioner's fitness report for the period 000101 to 000607 (TR), the Board has directed the following additional corrections:

a. Removal of the following verbiage from the RO's Addendum Page of 20000705: "Section F item 3: Do not concur with the RS. While MRO does not possess a stellar PFT score, he has never failed a PFT, been on weight control or military appearance nor have his Marines. His frequent absences from the work place for personal reasons are unavoidable sometimes for a single parent."

b. On Page one of MRO's statement of 2000705, elimination of all verbiage beginning with "Frequent absences have occurred due to the . . ." to the end of the text in Section B.

c. On Page two of MRO's statement of 2000705, elimination of the word "occurred."

7. Petitioner's fitness report for the period 990827 to 991231 (AN) was removed because it was procedurally and administratively incorrect. Section I contained adverse comments, yet the report had not been referred for signature in Item J2 and the opportunity for a rebuttal.

8. The case is forwarded for final action.

[Handwritten signature and redacted name]

Chairperson, Performance Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs Department
By direction of the Commandant of the Marine Corps